

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA

MISSOULA

(You must fill in this blank. See Instruction 7)

DIVISION

RECEIVED

DEC 11 2013

CLERK, U.S. DISTRICT COURT
DISTRICT OF MONTANA
MISSOULA

DAVID WAYNE SCANCE AP3966
(CALIFORNIA)

(Full name of Plaintiff and prisoner number, if any)

Plaintiff,

vs.

THOMAS J. KRAG, ET. AL.,

(SEE ATTACHED)

(Full name of each defendant as listed in the Parties section on page 5. Do not use et. al.)

Defendants.

COMPLAINT

Jury Trial Demanded ☒

Jury Trial Not Demanded ☐

(SEE ATTACHED)

INSTRUCTIONS

1. Use this form to file a civil complaint with the United States District Court for the District of Montana. Include only counts/causes of action and facts – not legal arguments or citations. You may attach additional pages where necessary. Your complaint must be typed or legibly handwritten in ink and on white paper. Write on only one side of the paper. Do not use highlighters and do not staple or otherwise bind your papers. All pleadings and other papers submitted for filing must be on 8 ½" x 11" paper (letter size). You must sign the complaint (see page 8). Your signature need not be notarized but it must be an original and not a copy. The Clerk's Office cannot provide you copies of documents in your file without prepayment of \$0.10 per page (for documents electronically available) or \$0.50 (for documents not electronically available). Please keep a copy of the documents you send to the Court.
2. The filing fee for a complaint is \$350.00 plus a \$50.00 administrative fee for a total of \$400.00. This amount is set by Congress and cannot be changed by the Court. If you pay the filing fee, you will be responsible for serving the complaint on each defendant and any costs associated with such service.

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3. If you are unable to prepay the entire filing fee and service costs for this action, you may file a motion to proceed in forma pauperis. If you are a prisoner and your motion to proceed in forma pauperis is granted, the Court will assess an initial partial filing fee equal to 20% of the average monthly deposits to your prison account for the six months immediately preceding the filing of the action, or 20% of the average monthly balance in your prison account for the same six month period, whichever is greater. Thereafter, the balance of the \$350.00 filing fee will be collected in installments equal to 20% of your preceding month's income any time the amount in your account exceeds \$10.00. The \$50.00 administrative fee does not apply to persons granted *in forma pauperis* status. You will be required to continue making these payments even if your complaint is dismissed.
4. Complaints submitted by persons proceeding in forma pauperis and complaints submitted by prisoners suing a governmental entity or employee must be reviewed by the Court before the defendants are required to answer. See 28 U.S.C. §§ 1915(e)(2), 1915A(a); 42 U.S.C. § 1997e(c). The Court will dismiss your complaint before it is served on the defendants if: (1) your allegation of poverty is untrue; (2) the action is frivolous or malicious; (3) your complaint does not state a claim upon which relief may be granted; or (4) you sue a defendant for money damages and that defendant is immune from liability for money damages. After the Court completes the review process, you will receive an Order explaining the findings and any further action you may or must take. The review process may take a few months; each case receives the judge's individual attention. Plaintiffs should not serve defendants, pursue discovery, or request entry of default judgment prior to the completion of this review process.
5. Prisoners who have had three or more cases dismissed as frivolous, malicious, or failing to state a claim upon which relief may be granted (strikes) will not be permitted to file any further civil actions without prepaying the filing fee unless they are in imminent danger of serious harm. See 28 U.S.C. § 1915(g).
6. Prisoners may not maintain more than two civil actions in forma pauperis at one time, unless the prisoner shows that he or she is under imminent danger of serious physical injury.
7. The case caption (page 1 of this form) must indicate the proper Division for filing. The proper Division is where the alleged wrong(s) occurred. When you have completed your complaint, mail the *original* of your complaint and either the full filing fee or your motion to proceed in forma pauperis to the proper Division:

Billings Division: *Big Horn, Carbon, Carter, Custer, Dawson, Fallon, Garfield, Golden Valley, McCone, Musselshell, Park, Petroleum, Powder River, Prairie, Richland, Rosebud, Stillwater, Sweetgrass, Treasure, Wheatland, Wibaux, and Yellowstone Counties*

**U.S. District Court Clerk, James F. Battin Courthouse,
2601 2nd Avenue North, Suite 1200, Billings, MT 59101**

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Butte Division: *Beaverhead, Deer Lodge, Gallatin, Madison, and Silver Bow Counties*
U.S. District Court Clerk, Mike Mansfield Courthouse, 400 N. Main,
Butte, MT 59701

Great Falls Division: *Blaine, Cascade, Chouteau, Daniels, Fergus, Glacier, Hill, Judith Basin, Liberty, Phillips, Pondera, Roosevelt, Sheridan, Teton, Toole, and Valley Counties (Crossroads Correctional Center is located in Toole County and all claims arising at CCC should be filed in Great Falls)*
U.S. District Court Clerk, Missouri River Courthouse, 125 Central Ave. West,
Great Falls, MT 59404

Helena Division: *Broadwater, Jefferson, Lewis & Clark, Meagher, and Powell Counties (Montana State Prison is located in Powell County and all claims arising at MSP should be filed in Helena)*
U.S. District Court Clerk, Paul G. Hatfield Courthouse, 901 Front St., Ste 2100,
Helena, MT 59626

Missoula Division: *Flathead, Granite, Lake, Lincoln, Mineral, Missoula, Ravalli, and Sanders Counties*
U.S. District Court Clerk, Russell Smith Courthouse, P.O. Box 8537,
Missoula, MT 59807

COMPLAINT

I. PLACE OF CONFINEMENT

A. Are you incarcerated? Yes ☒ No ☐ (if No, go to Part II)

B. If yes, where are you currently incarcerated?

SEE ATTACHED

C. If any of the incidents giving rise to your complaint occurred in a different facility, list that facility:

NOT A COMPLAINT RELATED TO CUSTODY.

COMPLAINT IS REGARDING ACTIONS WHICH LED TO MY BEING IN CUSTODY.

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II. JURISDICTION

Jurisdiction is asserted under (CHECK ANY THAT APPLY):

☒ 28 U.S.C. § 1331 because it raises a civil rights claim against a state or local government employee or entity under 42 U.S.C. § 1983

☒ 28 U.S.C. § 1331 because it raises a claim against a federal employee under *Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics*, 403 U.S. 388 (1971)

☒ 28 U.S.C. § 1332 (diversity) because all the defendants live in a different state than plaintiff *IN PART, DEFENDANTS LIVE IN TWO DIFFERENT STATES.*

If you wish to assert jurisdiction claim under different statutes, list them below.

(SEE ATTACHED)

III. EXHAUSTION OF ADMINISTRATIVE REMEDIES

A. Non-Prisoners

1. Does any cause of action alleged in this complaint require you to exhaust administrative remedies before filing in court? Yes ☐ No ☒ Don't Know ☐

2. If yes, have you exhausted your administrative remedies? Yes ☐ No ☐

B. Prisoners (If other institutions listed in I(C) above, answer for each institution).

1. Did you fully exhaust the administrative grievance process within the jail or prison where the incidents at issue occurred? Yes ☐ No ☐

2. If you did not fully exhaust the grievance process, explain why:

NOT APPLICABLE TO THIS SITUATION.

SEE ATTACHED

(NOTE: Prisoners must exhaust their jail/prison's grievance process. Proper exhaustion requires compliance with the jail/prison's grievance deadlines and procedural rules.)

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(SEE ATTACHED)

IV. PARTIES TO CURRENT LAWSUIT

A. Plaintiff DAVID WAYNE SCONCE is a citizen of MONTANA,
(State)
presently residing at 480 ALTA RD. SAN DIEGO, CA. 92179;
(Mailing address or place of confinement)
WIFE, LYNN, LEGAL LIAISON
who can be contacted at (409) 626-1626 CELL-529-1081 OHMINOCATE@DISHMAIL.NET
(Telephone with area code and e-mail address)

B. Defendant SEE ATTACHED is a citizen of _____,
(State)
employed as _____ at _____.
(Position and Title, if any) (Institution/Organization)

Defendant SEE ATTACHED is a citizen of _____,
(State)
employed as _____ at _____.
(Position and Title, if any) (Institution/Organization)

Defendant SEE ATTACHED is a citizen of _____,
(State)
employed as _____ at _____.
(Position and Title, if any) (Institution/Organization)

Defendant SEE ATTACHED is a citizen of _____,
(State)
employed as _____ at _____.
(Position and Title, if any) (Institution/Organization)

Defendant SEE ATTACHED is a citizen of _____,
(State)
employed as _____ at _____.
(Position and Title, if any) (Institution/Organization)

(NOTE: If more space is needed to furnish the above information, continue on a blank sheet labeled "APPENDIX A: PARTIES").

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V. STATEMENT OF CLAIMS

A. Count I (State your cause of action, e.g., what constitutional rights have been violated):

CONSTITUTIONAL RIGHTS VIOLATIONS 1, 5, 8, 14.
(SEE ATTACHED)

Date of incident(s):

1. Supporting Facts: (Include all facts you consider important, including names of persons involved, places, and dates. Describe what happened without citing legal arguments, cases, or statutes).

10-2-12 TO 12-28-12

(SEE ATTACHED)

2. Defendants Involved: (List the name of each defendant involved in this claim and specifically describe what each defendant did or did not do to allegedly cause your injury).

(SEE ATTACHED)

(NOTE: For each additional claim, use a blank sheet labeled "APPENDIX B. STATEMENT OF CLAIMS." You must set forth two paragraphs for each count, one consisting of Supporting Facts (following the directions under V(A)(1)), and one consisting of Defendants Involved (following the directions under V(A)(2)).

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VI. INJURY

Describe the injuries you suffered as a result of each individual defendant's actions. (Do not cite legal arguments, cases, or statutes).

(SEE ATTACHES)

(NOTE: If more space is needed to furnish the above information, continue on a blank sheet labeled "APPENDIX C: INJURY").

VII. REQUEST FOR RELIEF

Describe the relief you request. (Do not cite legal arguments, cases, or statutes).

(SEE ATTACHES)

(NOTE: If more space is needed to furnish the above information, continue on a blank sheet labeled "APPENDIX D: REQUEST FOR RELIEF").

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VIII. PLAINTIFF'S DECLARATION

A. I understand I must keep the Court informed of my current mailing address and my failure to do so may result in dismissal of this Complaint without notice to me.

B. I understand the Federal Rules of Civil Procedure prohibit litigants filing civil complaints from using certain information in documents submitted to the Court. In order to comply with these rules, I understand that:

- social security numbers, taxpayer identification numbers, and financial account numbers must include only the last four digits (e.g. xxx-xx-5271, xx-xxx5271, xxxxxxxx3567);
- birth dates must include the year of birth only (e.g. xx/xx/2001); and
- names of persons under the age of 18 must include initials only (e.g. L.K.).

If my documents (including exhibits) contain any of the above listed information, I understand it is my responsibility to black that information out before sending those documents to the Court.

I understand I am responsible for protecting the privacy of this information.

C. I understand the submission of a false statement or answer to any question in this complaint may subject me to penalties for perjury. I declare under penalty of perjury that I am the Plaintiff in this action, I have read this complaint, and the information I set forth herein is true and correct. 28 U.S.C. § 1746; 18 U.S.C. § 1621.

D. (Prisoners Only) This Complaint was deposited in the prison system for legal mail, postage prepaid or paid by the prison, on

Executed at SAN DIEGO, CA. on NOVEMBER 29, 2013.
(Location) (Date)



Signature of Plaintiff

Plaintiff's Last Name Source

(ATTACHMENTS)

Thomas Krag, Deputy District Attorney, Los Angeles, CA
Jackie Lacey, District Attorney, Los Angeles, CA
Jane Blissert, Deputy District Attorney, Los Angeles, CA
Jason Marks, County Attorney, Missoula, MT
Carl Ibsen, Sheriff, Missoula, MT
Derek Hart, U.S. Probation Officer, Missoula, MT